



U.S. Citizenship  
and Immigration  
Services

GA

FILE:

Office: NEW ORLEANS (MEM)

Date: SEP 30 2004

IN RE:

Obligor:  
Bonded Ali

IMMIGRATION BOND:

Bond Conditioned for the Delivery of an Alien under Section 103 of the  
Immigration and Nationality Act, 8 U.S.C. § 1103

ON BEHALF OF OBLIGOR:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Mari Johnson*

*for* Robert P. Wiemann, Director  
Administrative Appeals Office

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identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, New Orleans, Louisiana, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on November 6, 2000, the obligor posted a \$2,000 bond conditioned to insure his own delivery. A Notice to Deliver Alien (Form I-340) dated December 13, 2003, was sent to the obligor via certified mail, return receipt requested. The notice demanded the obligor to surrender himself into the custody of an officer of Immigration and Customs Enforcement (ICE) at 9:00 a.m. on January 13, 2004, at 1341 Sycamore View Road, Suite 100, Memphis, TN 38134. The obligor failed to present himself as required. On January 14, 2004, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that the bonded alien has a pending motion to reconsider before the Board of Immigration Appeals (BIA).

The record reflects that a removal hearing was held on February 14, 2002, and the alien was granted voluntary departure from the United States on or before April 15, 2002. The court ordered that a voluntary departure bond be imposed in the amount of \$500. A voluntary departure bond was not posted, and the delivery bond remains in effect. The bonded alien appealed the immigration judge's decision to the BIA. On June 30, 2003, the BIA dismissed the appeal. The alien filed a motion to reconsider before the BIA, which was subsequently denied on April 5, 2004.

The regulations at 8 C.F.R. § 1003.2(f) and § 1003.23(b)(1)(v) provide in part that filing a motion to reopen or a motion to reconsider shall not stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the BIA, the immigration judge, or an authorized officer of ICE. The record does not reflect that a stay of deportation was granted.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge, as specified in the appearance notice, upon each and every written request until removal proceedings are finally terminated, or until the said alien is actually accepted by ICE for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. § 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

8 C.F.R. § 103.5a(a)(2) provides that personal service may be effected by any of the following:

- (i) Delivery of a copy personally;
- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The evidence of record indicates that the Notice to Deliver Alien was sent to the obligor at 2570 Murfreesboro Pike, #C21, Nashville, TN 37217 on December 13, 2003 via certified mail. This notice demanded that the obligor produce himself on January 13, 2004. The domestic return receipt indicates the obligor received notice to produce himself on December 18, 2003. Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

It is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to an ICE officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by ICE for detention or removal.

It must be noted that delivery bonds are exacted to insure that aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to function in an orderly manner. The courts have long considered the confusion which would result if aliens could be surrendered at any time or place it suited the alien's or the surety's convenience. *Matter of L-*, 3 I&N Dec. 862 (C.O. 1950).

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

**ORDER:** The appeal is dismissed.